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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVON DARNELL CLARK,

Defendant and Appellant.

B235149

(Los Angeles County
Super. Ct. No. TA114104)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Ricardo R. Ocampo, Judge. Affirmed.

Siri Shetty, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Davon Darnell Clark entered an AutoZone store on September 22, 2009, held employees at gunpoint, forced them to open the store safe, and fled with its contents. Clark was charged by information on October 18, 2010, with five counts of second degree robbery (Pen. Code, § 211)¹ with special allegations he used a firearm to commit the offenses (§ 12022.53, subd. (b)) and had been released from custody on bail at the time of the offenses (§ 12022.1). He pleaded not guilty to all counts and denied the special allegations.

On May 2, 2011, Clark, represented by appointed counsel, entered a negotiated plea of guilty to one count of second degree robbery (count 3) and admitted having been released from custody on bail at the time of the offense, in return for which he was to be sentenced to an aggregate state prison term of seven years. Clark also agreed to pay \$2,976 in victim restitution to AutoZone.

Prior to entering his plea, Clark was advised of his constitutional rights and the nature and consequences of plea and admission, which Clark stated he understood. Defense counsel joined in the waivers of constitutional rights. The trial court found a factual basis for the plea based upon the police report and expressly found Clark's waivers, plea and admission were voluntary, knowing and intelligent.

In accordance with the plea agreement, the court sentenced Clark on June 2, 2011, to the upper term of five years in state prison for second degree robbery, enhanced by two years for having been released from custody on bail at the time of the offense. The court awarded Clark presentence custody credit of 384 days (334 actual days and 50 days of conduct credit). The court ordered Clark to pay \$2,976 in victim restitution, a \$40 court security assessment, a \$30 criminal conviction assessment, a \$20 DNA fee and a \$200 restitution fine, and imposed and stayed a parole revocation fine pursuant to section

¹ All further statutory references are to the Penal Code.

1202.45. The court dismissed the remaining counts and special allegation on the prosecution's motion.²

Clark filed a timely notice of appeal from the judgment in which he checked the preprinted boxes indicating, "This appeal is based on the sentence or other matters occurring after the plea"; and "This appeal challenges the validity of the plea or admission." As grounds for seeking a certificate of probable cause, Clark claimed the plea was illegal because he had "a clean record," had no "knowledge" of "[his] case the circumstantial evidence," was "scared and confused" when he entered his plea and did "not understand the judgment imposed." The court denied the request for a certificate of probable cause. We appointed counsel to represent Clark on appeal.

After examination of the record counsel filed an opening brief in which no issues were raised. On January 18, 2012, we advised Clark he had 30 days within which to personally submit any contentions or issues he wished us to consider. We have received no response to date. We have examined the entire record and are satisfied Clark's attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect the plea's validity. (Cal. Rules of Court, rule 8.304(b)(1).) Notwithstanding the fact his apparent constitutional claims are without support in the record, to the extent that Clark is attacking the validity of his plea without a certificate of probable cause, his notice of appeal is inoperative and that portion of the appeal is dismissed. (§ 1237.5; see *People v. Shelton* (2006) 37 Cal.4th 759, 769-771; *People v. Panizzon* (1996) 13 Cal.4th 68, 79.)

² The trial court revoked and terminated probation in Los Angeles Superior Court case No. SA071431.

In any event, the record provides no support for Clark's assertion there were any errors based on his sentence or other matters not affecting his plea.

The judgment is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

ZELON, J.